

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

v

File No. 89740-001

Midwest Security Life Insurance Company
Respondent

Issued and entered
this 3rd day of July 2008
by Ken Ross
Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On May 9, 2008, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the information and accepted the request on May 16, 2008.

The Commissioner notified Midwest Security Life Insurance Company (Midwest) of the external review and requested the information used in making its adverse determination. The company provided initial information on May 16, 2008, and additional information on May 23, 2008.

The issue here can be decided by an analysis of the certificate of coverage and applicable Michigan law. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II FACTUAL BACKGROUND

The Petitioner receives health care benefits under a group insurance plan underwritten by Midwest. Her benefits are defined in the certificate of group insurance (the certificate).

On January 11, 2008, the Petitioner fell while playing tennis in XXXXX, breaking her wrist and also hitting her elbow and head. She received care at local facilities, including surgery. Midwest eventually paid for the care she received in the emergency room at the in-network level but covered her care outside the emergency room at the non-network level of benefits.

The Petitioner appealed Midwest's failure to pay for all her care at the in-network level. Midwest reviewed the claim but upheld its decision to pay at the non-network level for the care provided outside the emergency room. A final adverse determination was issued March 31, 2008.

III ISSUE

Is Midwest required to pay an additional amount for the Petitioner's care provided to treat her wrist injury?

IV ANALYSIS

Petitioner's Position

The Petitioner says that when she fell and injured herself she had to lay still until her sister was able to learn the location of the nearest emergency room (ER). They were directed to go to XXXXX Hospital. Upon arriving at the ER, the Petitioner was quickly evaluated and was given an unknown drug to kill the pain. The Petitioner says that this drug rendered her incapable of making decisions, including determining what might be a network facility.

The Petitioner was told she was taken by ambulance to the XXXXX Hospital - XXXXX for surgery because the injury was so severe. The surgery was performed the next morning, January 12, 2008. The wrist was broken in four places and required a plate and six screws to put it back together. The Petitioner says she does not remember anything from the emergency room to the

next day when she was taken for surgery. She also says she had no choice of returning to Michigan to have the surgery at a network facility.

Because the Petitioner had no choice where she was treated and because of the severity of her injury, she believes that Midwest should pay for her care at the network rate. She does not believe that the non-network coinsurance should be applied given the circumstance of her case.

Midwest Security Position

Midwest reviewed the documentation, including any medical records and correspondence, and determined that the Petitioner's ER services on January 11, 2008, would be covered at the in-network level. This would include any laboratory or x-ray services as well as the ER charge.

However, Midwest did determine that all other charges incurred in XXXXX, would be covered as non-network benefits according to the certificate's Schedule of Benefits, because the facilities where the Petitioner received treatment, XXXXX Hospital and XXXXX Medical Center Clinic, are not network providers. Midwest said no additional payment would be made for those claims.

Commissioner's Review

Midwest covered the Petitioner's care in the ER on January 11, 2008, at 100% of usual, customary, and reasonable (UCR) rates, after a \$100.00 copayment, as provided for in the certificate's Schedule of Benefits for "Emergency Room and Care." However, Midwest covered the subsequent care the Petitioner received, including the surgery on her wrist and a hospital stay, at the non-network level because the care was received from non-network providers. Generally, non-network services (except ER care) are covered at 50% of the UCR after the non-network deductible is met.

The Petitioner believes that all of her medical care in XXXXX for the treatment of her broken wrist should be paid at 100% of UCR because, due to the severity of her injury, she was in no condition to make decisions about where she received treatment and had no choice of providers.

It is unfortunate that the Petitioner had little or no choice of where to receive her treatment. However, the certificate is clear that a 50% coinsurance is applied to the UCR rate for non-emergency room care rendered by non-network providers. Nothing in the certificate calls for a different result, even under the circumstances described by the Petitioner. Therefore, the Commissioner finds that Midwest processed the Petitioner's claims under the terms and conditions of the certificate and is not required to pay any additional amount for the Petitioner's care outside the ER.

**V
ORDER**

The Commissioner upholds Midwest's adverse determination of March 31, 2008.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.